

STATUS OF THE CLAIMS

Claims 1-3 are pending in the application.

Claim 1 was rejected under 35 USC§102 as being anticipated by Casey '497.

Claim 1 has been amended and claims 2 and 3 canceled.

Claim 1 (currently amended) remains pending in the application following entry of this Amendment A.

REMARKS

The undersigned thanks the Examiner for bringing the Casey '497 reference to his attention. The scope of the '497 reference, however, is limited to the disclosure of bioabsorbable surgical sponges comprising the homopolymer polyglycolic acid. The present invention discloses bioabsorbable surgical sponges comprising copolymers.

Summary of the Invention

A sterile, bioabsorbable, disposable surgical sponge operable for absorbing blood from within a surgical site. The sponge is an open cell porous body made from a bioabsorbable copolymer selected from the group consisting of lactide, glycolide, caprolactone, polydioxanone, trimethylene carbonate, polyorthoesters and polyethylene oxide. In the event that the sponge is accidentally left within the body during a surgical procedure, the sponge is biodegraded and excreted by the body.

The Rejection Under 35USC§102

Claims 1-3 were rejected under 35USC§102 as being anticipated by Casey '497. Briefly, Casey '497 discloses a surgical sponge consisting essentially the homopolymer

polyglycolic acid in a w/w composition of at least 85% of the polyglycolic acid homopolymer.

In contrast, the present invention discloses and claims a bioabsorbable surgical sponge that comprises heteropolymers. In order for a patent to qualify as a reference supporting a §102 (b) rejection, it must disclose each and every limitation of the rejected claim. It is settled that even only slight differences between the compared inventions prevent a rejection based on lack of novelty under §102. Anticipation under 35 USC §102 requires that the cited reference(s) demonstrate each and every element of the claimed invention. In view of the differences between the elements of the present invention and those of the prior art presented herein (i.e., heteropolymers (copolymers) vs homopolymers), it is requested that this rejection be withdrawn.

Entry of this amendment, reconsideration, favorable action and early allowance and publication of this application are respectfully requested. If there are any minor matters remaining, it is respectfully requested that the examiner contact the undersigned by phone so that possible minor changes may be discussed in order to expedite the prosecution of this case.

Respectfully,



Michael G. Petit, Reg. No. 30,795
P. O. Box 91921
Santa Barbara, CA 93190-1929
Tel: 805-563-6556/Fax: 805-563-6615

CERTIFICATE OF FACSIMILE TRANSMISSION

I hereby certify that the following papers are being facsimile transmitted to the Patent and Trademark office on the date shown below.

1. Urgent and Time Sensitive Communication to the Examiner
2. Amendment A responsive to the Office Action dated 9/6/05.



Michael G. Petit

Date: December 6, 2005